



**A Report to the  
Audit Committee**

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Judge Gale B. Robinson  
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**Metropolitan  
Nashville  
Office of  
Internal Audit**

# Audit of General Sessions Recovery Court – Case Management

December 18, 2017

## EXECUTIVE SUMMARY

December 18, 2017



### Why We Did This Audit

This audit is the second phase of an audit conducted on the General Sessions Recovery Court. This phase focused on the case management aspect of the Recovery Court. The first phase focused on the fiscal management aspect of the Recovery Court to which a separate report was issued on August 18, 2017.

### What We Recommend

The General Sessions Recovery Court should:

- Develop and implement written policies and procedures.
- Ensure all documentation and court documents are consistently retained.

# Audit of General Sessions Recovery Court – Case Management

## BACKGROUND

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The mission of the General Sessions Recovery Court is to reduce drug-related crime and promote community safety by giving rehabilitation opportunities instead of incarceration to those who have substance abuse issues and have been arrested for a nonviolent offense. The life cycle of a Recovery Court case involves the Davidson County Sheriff's Office, General Sessions Court, and the Davidson County Criminal Clerk's Office.

## OBJECTIVES AND SCOPE

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The audit objectives are to determine if General Sessions Recovery Court:

- Cases are identified, tracked, and monitored for changes in case disposition authorized by a judge, and changes are recorded by the Criminal Court Clerk.
- Case files are secure.

This audit covers case management activities related to the General Sessions Recovery Court between April 1, 2015, and March 31, 2017.

## WHAT WE FOUND

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The General Sessions Recovery Court and Criminal Court Clerk's Office have methodologies in place to identify, track, and monitor cases related to the General Sessions Recovery Court. Changes in case disposition are approved by a judge and recorded by the Criminal Court Clerk's Office.

The General Sessions Recovery Court is in the process of developing written policies and procedures. The General Sessions Recovery Court did not have an established document retention schedule for case file information.

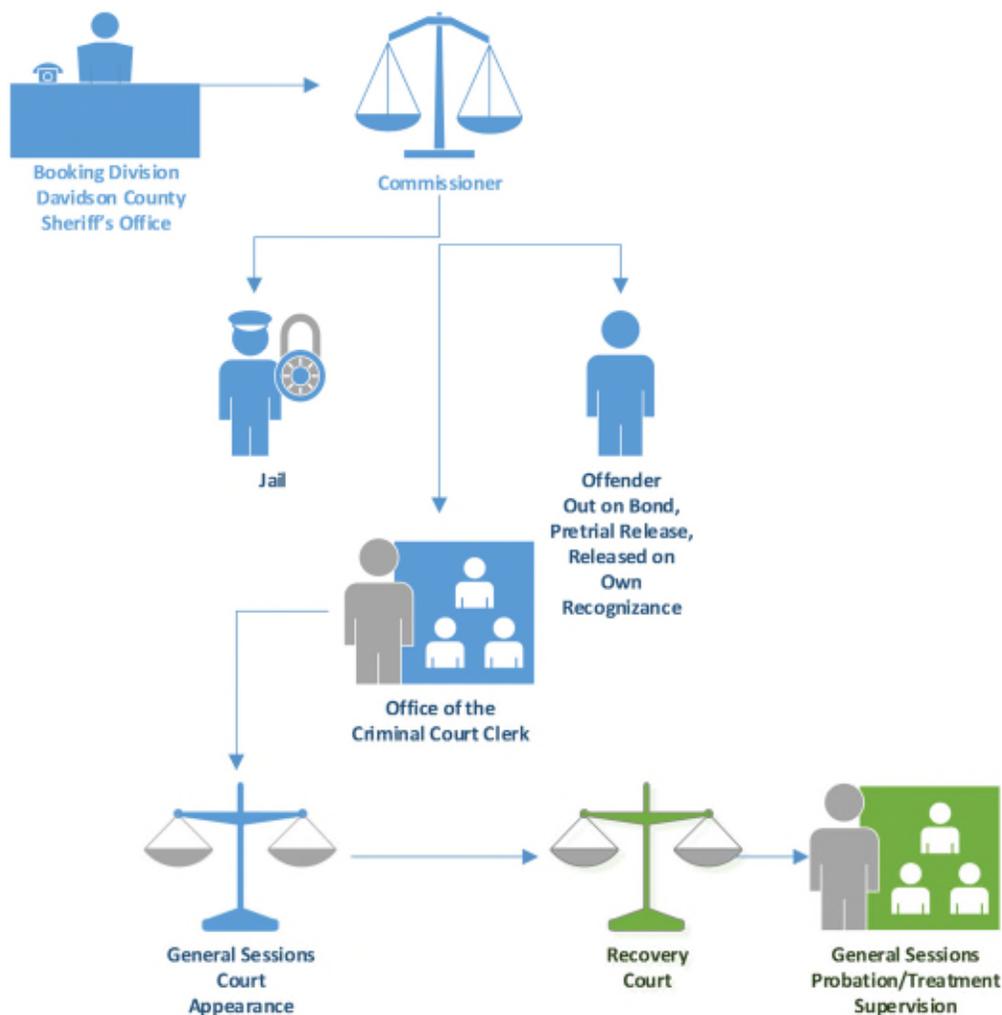
## GOVERNANCE

The General Sessions Recovery Court was established through the ‘Drug Court Recovery Act 2003’ enacted by Tennessee Code Annotated, Title 16. A General Sessions Presiding Judge oversees the Court operation. A program manager oversees case management and is under the direct supervision of the General Sessions Court Director of Probation. The Criminal Court Clerk’s Office creates new cases, retains certain documentation, and is responsible for the security of case files.

The General Sessions Recovery Court experienced management change in January 2017. A new program manager was appointed to oversee Recovery Court daily operation. The current program coordinator is under the direct supervision of the Director of Probation in General Sessions Court.

## GENERAL SESSIONS COURT CASE MANAGEMENT PROCESS

### Exhibit A – Overview of General Sessions Court Case Management Process



The court case management process begins when a citizen has allegedly violated a law or series of laws. The offender is escorted to the Booking Division within the Davidson County Sheriff's Office by a police

officer. A warrant is generated and input into the Criminal Justice Information System during the booking process. A warrant will not be issued unless there is probable cause presented to the issuing Judicial Commissioner that the person has indeed committed the offense.

After the warrant is approved, the commissioner will set bail and the citizen will either:

- Make the bond and be released.
- Qualify for the Pretrial Release program and be released.
- Released on their own recognizance.
- Stay in jail until he/she makes the bond or until the court date.
- Released based on lack of probable cause.

The Commissioner's action of issuing the warrant and setting the bond is entered by the Commissioner in the Criminal Justice Information System with physical copies of documents forwarded to the Criminal Court Clerk's Office. The commissioner will either set bail, require the citizen to reside in jail until the court date or release the citizen based on lack of probable cause. The case is updated in the Criminal Justice Information System by the commissioner with physical copies of documents forwarded to the Criminal Court Clerk's Office

The Office of Criminal Court Clerk's Office accesses the queue, automatically created by the Criminal Justice Information System, and creates a specific case file for each incident. Each case is assigned a court date and set on a criminal docket according to General Sessions Criminal Docket Structure Business Rules. Offenders could be assigned to any General Sessions Court judge's docket. When an offender is in jail, the case is placed on the jail docket, and a closer court date is set.

For cases related to the Recovery Court, the offender's attorney and the District Attorney's Office will work together to negotiate a plea and offer a qualified defendant an opportunity to participate in the Recovery Court Rehabilitation program. There are four steps before the defendant can be admitted into the treatment program:

1. The offender's attorney will fill out a referral form that is approved by the District Attorney's Office.
2. After receiving the referral form, a probation officer will interview the offender and will get background information such as how long the offender has had addiction problems and the type drugs used. The probation officer will also perform a screening to determine if the defendant has a history of being a sex offender, in a gang, or has a violent criminal history.
3. A substance abuse evaluation of the offender is conducted.
4. A team of five members reviews each offender's situation. A vote is conducted to determine if the offender will be recommended to the judge to participate in the program. The five members include the Recovery Court Judge, the Program Manager of Recovery Court, the Director of the Drug Court Foundation Center, an Assistant District Attorney and an Assistant Public Defender. The General Sessions Recovery Court Judge makes the final decision as to whether a person is allowed to become a participant.

The Recovery Court program typically takes anywhere from 12 to 18 months to complete. Participants are required to attend group treatment sessions three times a week. Participants in phase one attend court each week, participants in phase two and three attend court every other week.

The current system utilizes manual case files. The manual case files are the official system of record. There are two files for each participant, the Criminal Court Clerk’s Office file, and the Recovery Court file maintained by the General Sessions Court Probation Office. See Exhibit B for typical documents recorded in a case file.

**Exhibit B – Typical General Sessions Court Case File Documentation**

Criminal Court Clerk’s Office	General Sessions Recovery Court
Warrant	Referral to Recovery Court
Affidavit	Signed copy of the Recover Court Conditions
Criminal Appearance Recognizance	Signed Release of Information
Disposition Form	Probation Violation and Capias, if applicable
Condition of Release	Signed Disposition into Recovery Court
Probation Violation and Capias, if applicable	Weekly handwritten notes
Miscellaneous motions filed, if applicable	Voluntary Participation Statement

Source: Office of Internal Audit interviews and observations.

**Release from the Program**

Participants in the Recovery Court program will typically be released in the following four ways:

- *Completed* - Participant has completed the program.
- *Terminated* - Participant has not completed the program, and their supervision term has expired.
- *Revoked* - Participant has violated the terms of probation, and they must serve the original sentence.
- *Probation Violation Warrant* - Participant has violated the terms of probation or bond, the Recovery Court is unaware of where they are, and a warrant has been issued for their arrest.

The Condition of Release Form is signed by the Commissioner in pre-trial cases and retained on file with the Criminal Court Clerk’s Office. A Disposition Form is signed by a General Sessions Judge when participants are released from the Recovery Court program due to completion, termination, or revocation. A copy of the Disposition Form is also retained in the Criminal Clerk’s Office. A summary of General Sessions Recovery Court cases is shown in Exhibit C.

**Exhibit C – General Sessions Recovery Court Cases by Status from April 1, 2015, to March 31, 2017**

Case Status	Recovery Court	Criminal Court Clerk
Abated by Death	1	3
Active	60	95
Completed	45	75
PV Warrant	28	55
Revoked	75	124
Terminated	43	79
Total	252	431

Source: Adult Probation Information System as of August 23, 2017.

### **Information System Utilized in Recovery Court and the Office of the Criminal Court Clerk's Office**

There are two software applications used to assist tracking Recovery Court cases. The Criminal Justice Integration System is the primary system that tracks the life cycle of a case. This system is utilized by both the Criminal Court Clerk's Office and the General Session's Recovery Court. The Adult Probation System is used almost exclusively by the General Session's Recovery Court to monitor the terms of probation for Recovery Court participants.

A new E-filing and Document Management System is under contract and will be implemented by the Criminal Court Clerk's Office over the next couple of years. The E-filing system takes the data from its origination and will improve the process. The current Criminal Justice Integration System will not change after the implementation of the new system.

### **Judge Recusals**

There are times when cases are presented before a judge where a conflict of interest may exist. Judges are ethically required by their Canon of Ethics to disclose any potential conflicts of interest in a case to both parties which would be prosecuting and defense attorneys in a criminal case. If there is a conflict of interest, the judges are to follow the following sequential procedures set out in T.C.A. 16-15-209 to obtain a special judge:

1. Interchange with another judge. During the audit period, there were no formal documents to record this. However, a record in the Criminal Justice Information System and a manual file is retained regarding which docket and the specific judge that heard the criminal case.
2. If another judge cannot serve by interchange, a former or retired judge may sit by designation of the Chief Justice of the Tennessee Supreme Court.
3. If a former or retired judge is unavailable, the judge may apply to the Administrative Office of the Courts for assistance in finding a judge to sit by designation of the Chief Justice.
4. Only after exhausting the previous procedures, a judge may appoint a lawyer from a list on a rotating basis that have been previously approved by the judge or judges of the district or county and who are constitutionally qualified and in good standing. If one of the parties in a case has an issue with the appointed lawyer, then the case may be continued until the elected or appointed judge is available.

A copy of the Oath of Office is filed in the Criminal Court Clerk's Office for each special judge except for the judge sitting by interchange. If a conflict should exist and a judge did not recuse himself or herself, then there would be a public record of the judge hearing the case. Attorneys can file motions in court if they feel there is a conflict of interest that has not been adequately addressed by a judge. In these cases, a judge will be required to file a written statement as to why they will or will not recuse themselves.

Effective April 4, 2017, the General Sessions Judges adopted and implemented a Case Transfer Order when a case is transferred from one judge to another. Said Order is signed by the Transferring Judge, Receiving Judge, District Attorney, and Defense Attorney and filed in the Criminal Court Clerk's Office. The Case Transfer Order is also utilized for all General Sessions court cases (civil, criminal, and traffic).

### **Release from Davidson County Jail**

Any offender who resides in jail can only be released in the following three ways:

- A Commissioner will sign a Condition of Release Form in pre-trial cases. A copy of this form is then sent to the Releasing Division within the Davidson County Sheriff's Office. The Criminal Court Clerk's Office retains the original form within their office.
- A judge orders the offenders release. Staff with the Criminal Clerk's Office will prepare a Jail Release Document and record the release in the Criminal Justice Information System. The Jail Release Document is sent to the Releasing Division within the Davidson County Sheriff's Office.
- The offender completes the time served and is released. In these situations, a division within the Davidson County Sheriff's Office is responsible for tracking release dates for inmates. A listing is sent from this division to the Releasing Division. Inmates are then processed for release.

## OBJECTIVES AND CONCLUSIONS

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1. *Are cases files identified, tracked, and monitored for changes in case disposition authorized by a judge, and changes in disposition are recorded by the Criminal Court Clerk's Office?*

**Generally yes.** Both the General Sessions Recovery Court the Criminal Court Clerk's Office have controls in place to ensure the identification, monitoring, and security of case files. Processes have also been put in place to ensure that changes in the disposition of a case are approved, documented, and recorded.

The General Sessions Recovery Court is in the process of developing written policies and procedures. (See Observation A.) Document retention within the General Sessions Recovery Court could be improved. (See Observation B.)

2. *Are case files secured?*

**Yes.** The General Sessions Recovery Court and Criminal Court Clerk's Office have controls in place to ensure only authorized parties have access to case files. Case files are retained at the Criminal Court Clerk's Office where only staff have access to the files. Outside parties may review case files but only in the presence of Criminal Court Clerk's Office staff. Attorneys are allowed to take case files to court but must sign the files out on a log maintained by the Criminal Court Clerk's Office.

## AUDIT OBSERVATIONS

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Internal control helps entities achieve important objectives and sustain and improve performance. The Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control – Integrated Framework (COSO)*, enables organizations to effectively and efficiently develop systems of internal control that adapt to changing business and operating environment, mitigate risks to acceptable levels, and support sound decision making and governance of the organization. The audit observations listed are offered to assist management in fulfilling their internal control responsibilities.

### ***Observation A – Develop Policies and Procedures in Recovery Court***

The General Sessions Recovery Court has not fully generated formal written policies and procedures for the case management process. While some procedures were in place, developing a more robust set of policies and procedures was not undertaken until March 2017. This enhancement is still undergoing. Detailed written procedures help retain and transfer knowledge to future office staff as well as help ensure cases are processed in a consistent and proper manner.

#### *Criteria:*

COSO, Control Activities—Principle 12—The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.

#### *Recommendation for Management of the General Sessions Recovery Court to:*

Develop written procedures for each critical process and task related to the case management process and other core requirements. These procedures should be periodically reviewed and updated.

### ***Observation B – Retention of Documentation***

Supporting documentation items in General Session Recovery Court cases files are not being retained in a consistent manner. A sample of 29 cases files showed:

- Signed Recovery Court Condition forms were not available for 17 case files. This is the binding agreement signed by Recovery Court participant to acknowledge the rules set by the program.
- Program participant signature on the Recovery Court Authorization to Release Information form, Recovery Court Agreement to be Interviewed form, and Recovery Court Comply with the Treatment Recommendation form were not available for 9 case files. These forms need to be signed by participants to acknowledge their voluntary permission to participate in the program, to follow prescribed treatment programs, and their authorization to access personal information including Health Insurance Portability and Accountability Act protected medical information.
- Probation Violation Warrants in 7 case files did not have corresponding events created in the Adult Probation System. As the Adult Probation System serves as the main case tracking and management system in Recovery Court, it is important to keep all probation events and requirements in the system to accurately track and monitor individual cases.

#### *Criteria:*

- *The Drug Court Judicial Bench Book* – February 2011
- *Adult Drug Court Best Practice Standards Volume 1 and Volume 2* – 2013

- COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

*Recommendations for management of the General Sessions Recovery Court to:*

1. Work with the Metropolitan Nashville Clerk’s Records Management Division to establish a records disposition authorization schedule for General Sessions Recovery Court documentation.
2. Ensure all applicable supporting documentation is being retained for a reasonable time.

## **GOVERNMENT AUDITING STANDARDS COMPLIANCE**

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We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

## **METHODOLOGY**

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To accomplish our audit objectives, we performed the following steps:

- Interviewed key personnel within:
  - General Sessions Recovery Court
  - General Sessions Court Administration
  - Criminal Court Clerk’s Office
  - Davison County Sheriff’s Office Booking Division
- Reviewed and analyzed documentation for compliance with the Tennessee Code Annotated, other applicable laws, regulations, and policies, and best practice standard.
- Evaluated internal controls currently in place.
- Reviewed sample selections to determine the effectiveness of internal controls.
- Considered risk of fraud, waste, and abuse.

## **AUDIT TEAM**

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Nan Wen, CPA, In-Charge Auditor  
Seth Hatfield, CPA, Assisting Auditor  
Bill Walker, CPA, CIA, Quality Assurance  
Mark Swann, CPA, CIA, CISA, ACDA, Metropolitan Auditor

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

WARNER C. HASSELL  
COURT ADMINISTRATOR



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December 6, 2017

Mark Swann, Metropolitan Auditor  
Office of Internal Audit  
404 James Robertson Pkwy. Suite 190  
Nashville, TN 37219

Dear Mr. Swann,

This letter acknowledges receipt of your Office's Audit of the General Sessions Recovery Court Case Management. We have reviewed and concur with the audit comments and recommendations, as noted in Appendix A. The policies and procedures development were completed on September 4, 2017. The records disposition schedule with the Metropolitan Clerk's Office will be completed by February 1, 2018. By August 1, 2017, we began a system of maintaining supporting documentation for cases for a reasonable period of time.

We appreciated the professional and thorough manner in which the Internal Audit staff conducted this audit.

Sincerely,

A handwritten signature in cursive script that reads "Warner Hassell".

Warner Hassell

cc: Judge Gale B. Robinson, Recovery Court  
Presiding Judge Melissa Blackburn





**Metropolitan Government of Nashville**  
TWENTIETH JUDICIAL DISTRICT

**HOWARD GENTRY, JR.**  
CRIMINAL COURT CLERK  
DAVIDSON COUNTY

JUSTICE A. A. BIRCH BUILDING  
406 2ND AVENUE NORTH • SUITE 2120  
NASHVILLE, TN 37201  
615-862-6601

December 18, 2017

Mr. Mark Swann  
Metropolitan Auditor  
Office of Internal Audit  
404 James Robertson Parkway - Suite 190  
Nashville, TN 37219

Dear Mr. Swann,

This letter acknowledges receipt of your Office's Audit of the General Sessions Recovery Court Case Management. While there are no comments or recommendations for the Office of the Criminal Court, we have reviewed the report and agree with the recommendations for the General Sessions Recovery Court.

Thank you for your important work on this matter and for conducting this audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard C. Gentry".

Howard C. Gentry  
Criminal Court Clerk

HCG:AD/b

Cc: Alfred Degrafinreid  
Chief Administrative Officer

[ccc.nashville.gov](http://ccc.nashville.gov)

## APPENDIX A – MANAGEMENT RESPONSE AND CORRECTIVE ACTION PLAN

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We believe that operational management is in a unique position to best understand their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing their response to our recommendations.

Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
<i>Recommendations for management of the General Sessions Recovery Court to:</i>		
A.1 - Develop written procedures for each critical process and task related to the case management process and other core requirements. These procedures should be periodically reviewed and updated.	<b>Accept.</b>	Completed.
B.1 - Work with the Metropolitan Nashville Clerk’s Records Management Division to establish a records disposition authorization schedule for General Sessions Recovery Court documentation.	<b>Accept.</b>	02/01/2018
B.2 - Ensure all applicable supporting documentation is being retained for a reasonable time.	<b>Accept.</b>	Completed